

1
2
3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 * * *

7 SHARON JONES,

8 Plaintiff(s),

9 v.

10 SOUTHWEST GAS CORPORATION,

11 Defendant(s).

Case No. 2:18-CV-1142 JCM (DJA)

ORDER

12
13 Presently before the court is Southwest Gas Corporation's ("defendant") motion to strike
14 *pro se* plaintiff Sharon Jones's ("plaintiff") response. (ECF No. 29). In the alternative,
15 defendant moves to extend time to file a reply brief to plaintiff's response. (ECF No. 30).

16 Defendant moved for summary judgment on May 30, 2019. (ECF No. 24). Plaintiff's
17 response was due by June 20, 2019. Plaintiff filed a response on August 9, 2019—fifty days
18 after the deadline to do so had passed. (ECF No. 28).

19 Pursuant to Local Rule 7-2(d), an opposing party's failure to file a timely response to any
20 motion constitutes the party's consent to the granting of the motion and is proper grounds for
21 dismissal. LR 7-2(d). However, the Ninth Circuit has held that a court cannot grant a summary
22 judgment motion merely because it is unopposed. *Henry v. Gill Indus., Inc.*, 983 F.2d 943, 949-
23 50 (9th Cir. 1993); *see also Martinez v. Stanford*, 323 F.3d 1178, 1182 (9th Cir. 2003) (a district
24 court cannot grant a motion for summary judgment based merely on the fact that the opposing
25 party failed to file an opposition). Consequently, Local Rule 7-2(d) specifically exempts
26 motions for summary judgment from the general rule. LR 7-2(d).

27 Further, the Ninth Circuit has clearly established that "public policy favor[s] disposition
28 of cases on their merits." *See Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). The court also

1 tends to “afford greater latitude as a matter of judicial discretion” to pro se litigants. *Ricotta v.*
2 *California*, 4 F. Supp. 2d 961, 986 (S.D. Cal. 1998); *see also* *Michenfelder v. Sumner*, 860 F.2d
3 328, 338 (9th Cir. 1988) (“In light of the latitude we prefer to allow pro se plaintiffs”);
4 *McCabe v. Arave*, 827 F.2d 634, 640 (9th Cir. 1987) (“[C]ourts are to make reasonable
5 allowances for pro se litigants and to read pro se papers liberally.”).

6 Consequently, the court finds good cause to make an allowance for plaintiff’s late filing.
7 Defendant’s motion to strike plaintiff’s response is denied for that reason. Because of the
8 untimely filing of the response, equity requires that defendant be given more time to reply. As a
9 result, defendant’s motion to extend time is granted.


10 Accordingly,

11 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that defendant’s motion to
12 strike plaintiff’s response (ECF No. 29) be, and the same hereby is, DENIED.

13 IT IS FURTHER ORDERED that defendant’s motion to extend time (ECF No. 30) be,
14 and the same hereby is, GRANTED.

15 IT IS FURTHER ORDERED that defendant shall file a reply to plaintiff’s response by
16 September 4, 2019.

17 DATED August 22, 2019.

18 
19 UNITED STATES DISTRICT JUDGE